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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 24

In re Application of :
Luis J. Rodriguez : DECISION ON PETITION
Application No. 09/978,215 :
Filed: October 15, 2001 :
For: Self Sealing Letter Sheets :

This is a decision on the petition filed on October 17, 2002 by which petitioner requests entry of a model. The petition is treated under 37 CFR 1.181 and no fee is required.

The petition is dismissed.

The regulation governing the admission of models reads as follows:

37 CFR 1.91 Models or exhibits not generally admitted as part of application or patent.

(a) A model or exhibit will not be admitted as part of the record of an application unless it:

- (1) Substantially conforms to the requirements of § 1.52 or § 1.84;
- (2) Is specifically required by the Office; or
- (3) Is filed with a petition under this section including:

(i) The fee set forth in § 1.17(h); and

(ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.


(b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application.

MPEP § 608.03 states that "[M]odels or exhibits are generally not admitted as part of an application or patent unless the requirements of 37 CFR 1.91 are satisfied."

A review of the petition shows petitioner has not satisfied items (a)(1) and (a)(3). The models do not appear to substantially conform to the requirements of 37 CFR 1.52. Petitioner has not explained why the entry of the model or exhibit is necessary to demonstrate patentability. There is no evidence that the claimed invention and/or the devices described in the prior art references have not been understood by the examiner, and that they can be understood only by reference to a model or exhibit.

Petitioner may file a renewed petition, without additional fee, provided that the renewed petition is filed within two months of the date of this decision. See 37 CFR 1.181(f). It is noted that an appeal brief was timely filed on March 7, 2003, so that the application is ripe for consideration of the appeal brief by the Primary Examiner. The application is being returned to the Supervisory Patent Examiner in Art Unit 3727 for appropriate action.

PETITION DISMISSED.


E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Luis J. Rodriguez
60 Fourth Street
South Orange, NJ 07079